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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ON PETITION

In re Application of:
Tan, Thiom Keng
Application No. 09/691,858
Filed: October 18, 2000
For: VIDEO CODING METHOD AND
DECODING METHOD AND DEVICES
THEREOF

This is a decision on the petition filed September 3, 2002 under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment. No fee is required.

The application was held abandoned for failure to respond in a timely manner to the non-final Office action mailed on June 19, 2001. A Notice of Abandonment was mailed on August 26, 2002.

Petitioner alleges to have timely filed a response to said Office Action. In support, Petitioner has provided a copy of a date-stamped post card receipt acknowledging receipt of the amendment in the U.S. Patent and Trademark Office on May 2, 2002. Petitioner submitted a copy of the response on September 3, 2002.

The original response is not of record in the file and cannot be located. However, M.P.E.P. 503 states, “[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all items listed thereon on the date stamped thereon by the PTO.” Accordingly, it is concluded that the amendment was received in the Office but was not matched with the application file.

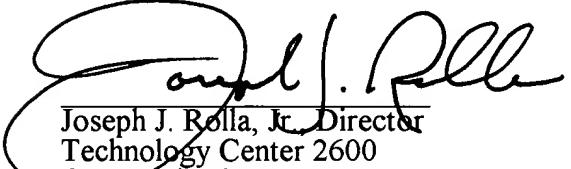
The date stamped on the post-card of May 2, 2002, is after the due date for the response. However, under 37 CFR 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 CFR 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 CFR 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The amendment bears a proper certificate of mailing in compliance with the requirements of 37 CFR 1.8(a)(1) as set forth above. Accordingly, the Notice of Abandonment is hereby vacated and the Holding of Abandonment withdrawn.

For the reasons above, the petition is **GRANTED**.

Application No: 09/6958
On Petition

The application file will be forwarded to Technology Center technical support staff for entry of the response, the one-month extension of time, the substitute declaration by the inventor and a copy of the offer to surrender the patent, provided with this petition. From there, the application file will be forwarded to the examiner for further action in due course.



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